

United States District Court, Northern District of Illinois

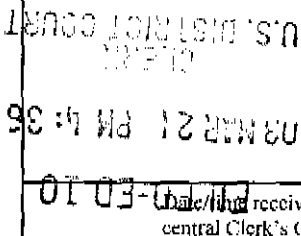
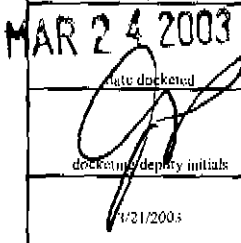

Name of Assigned Judge or Magistrate Judge	Milton I. Shadur	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	03 C 1511	DATE	3/21/2003
CASE TITLE	John F. Beckman, III vs. Edward J. Pajian, et al		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

DOCKET ENTRY:

- (1) ☐ Filed motion of [use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due ____.
- (3) ☐ Answer brief to motion due _____. Reply to answer brief due ____.
- (4) ☐ Ruling/Hearing on _____ set for _____ at _____.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) ☐ Trial[set for/re-set for] on _____ at _____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ Local Rule 41.1 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] Enter Memorandum Order. Because of numerous flaws in Pajian's Answer, it is stricken in its entirety, but without prejudice to his repleading via a self-contained Amended Answer and Affirmative Defenses. Leave is granted to file such a replacement pleading in this court's chambers on or before April 1, 2003.
- (11) ☒ [For further detail see order attached to the original minute order.]

<input type="checkbox"/>	No notices required, advised in open court.		number of notices		Document Number
<input type="checkbox"/>	No notices required.		date docketed		
<input checked="" type="checkbox"/>	Notices mailed by judge's staff.		docketing/deputy initials		
<input type="checkbox"/>	Notified counsel by telephone.		3/21/2003		
<input type="checkbox"/>	Docketing to mail notices.		date mailed notice		
<input type="checkbox"/>	Mail AO 450 form.		SN		
<input type="checkbox"/>	Copy to judge/magistrate judge.		mailing deputy initials		
SN	courtroom deputy's initials				

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JOHN F. BECKMAN, III,)
)
Plaintiff,)
)
v.) No. 03 C 1511
)
EDWARD J. PAJIAN, et al.,)
)
Defendants.)

MEMORANDUM ORDER

DOCKETED
MAR 24 2003

Edward Pajian ("Pajian") has filed his Answer and Affirmative Defenses to a personal injury Complaint, stemming from a three-vehicle accident, brought by John Beckman, III ("Beckman") against Pajian, Matthew Lane ("Lane") and Pajian Carpets, Inc. ("Pajian Carpets"). This memorandum order is issued sua sponte to address some problematic aspects of that responsive pleading.

To begin with, Pajian disclaims under the second sentence of Fed. R. Civ. P. ("Rule") 8(b) any ability to respond to the Complaint's allegations as to Pajian Carpets' state of incorporation and principal place of business. Although that disclaimer is proper in form (see App. ¶1 to State Farm Mut. Auto. Ins. Co. v. Riley, 199 F.R.D. 276, 279 (N.D. Ill. 2001)), the fact that Pajian and Pajian Carpets share the same proper name would strongly suggest the likelihood that he would have at least enough information to support a belief as to the truth of the allegations. This Court does not of course have any actual

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knowledge on that score, but the law of probabilities would seem to indicate that Pajian's counsel ought to take a fresh look at the matter.

In somewhat the same vein, if Pajian has knowledge of the severity of the collision (as would seem most likely) such as to confirm the description of Beckman's highly serious injuries as alleged in Complaint ¶15, a like Rule 8(b) disclaimer as to the amount-in-controversy allegation of Complaint ¶4 would also appear questionable. Again Pajian's counsel must review the matter.

To shift to a pleading locution that is clearly impermissible, Pajian cannot decline to answer the jurisdictional allegation of Complaint ¶5 on the premise that it "is one of law, not fact, and is thus properly neither admitted nor denied." That is at odds both with the mandate of Rule 8(b) and with the principle that legal conclusions are a perfectly proper part of federal pleading (see App. ¶2 to State Farm). Indeed, counsel should take a look at the flat-out admission of jurisdiction that constitutes part of Form 21 of the Appendix of Forms following the Rules, which forms are expressly approved in Rule 84.

What has been said earlier as to Answer ¶3 applies with equal force to Answer ¶13. Again counsel must take a hard look at the issue.

Answer ¶14 is entirely unsatisfactory. Over and above the

point made earlier as to the need under the first sentence of Rule 8(b) to answer all of a plaintiff's allegations, a purported denial of the Complaint's allegations about Lane's negligence "[t]o the extent that any of the allegations are directed toward this defendant [Pajian]" is nonsensical. Pajian must answer.

Finally, to return to Answer ¶15, Pajian may well take the position of denying that Beckman's injuries resulted from Pajian's alleged negligence. But it seems doubtful that an absolute denial of the injuries themselves may be made in the objective good faith required under Rule 11(b)(4).

Because of those numerous flaws in Pajian's Answer, it is stricken in its entirety, but without prejudice to his repleading via a self-contained Amended Answer and Affirmative Defenses. Leave is granted to file such a replacement pleading in this Court's chambers (with copies contemporaneously transmitted to counsel for the other parties) on or before April 1, 2003. No charge is to be made to Pajian by its counsel for the added work and expense incurred in correcting counsel's errors. Pajian's counsel are ordered to apprise their client to that effect by letter, with a copy to be transmitted to this Court's chambers as an informational matter (not for filing).



Milton I. Shadur
Senior United States District Judge

Date: March 21, 2003